

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed December 19, 2005. At the time of the Final Office Action, Claims 24, 25, 27, 28 and 36-54 were pending in this Application. Claims 24, 25, 27, 28 and 36-54 were rejected. Claims 24, 42, 51 and 54 have been amended to further define various features of Applicants' invention. Claim 26 was previously cancelled without prejudice or disclaimer and Claims 1-23 and 29-35 were previously cancelled due to an election/restriction requirement. Applicants respectfully request reconsideration and favorable action in this case.

Information Disclosure Statement

The Information Disclosure Statement filed July 9, 2003, failed to comply with 37 C.F.R. §198(a)(3) because it did not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 C.F.R. §1.56(c) most knowledgeable about the content of the information of each patent listed that is not in the English language. Applicants therefore enclose English translations for the foreign references not previously considered by the Examiner. Applicants also enclose a copy of the PTO-1449 form filed with the IDS on July 9, 2003, where the Examiner crossed out the references not considered.

Rejections under 35 U.S.C. §102 and §103

Claims 24, 27, 37-41, 42, 43 and 48-50 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,498,336 issued to Naoki Katsurada et al. ("Katsurada"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1997). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipatory by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

The Katsurada reference differs from the present claims in at least two respects. First, the argon treatment disclosed in Katsurada does cause structural differences in the filter as compared to Applicants' oxygen plasma treatment. The examples of Katsurada make this structural difference clear. Katsurada, in Examples 4-7 and particularly at Col. 7, line 61 teaches to treat polyurethane filters with argon plasma, then to graft a polymer onto the filters. In contrast, at page 9, lines 17-21 of the present application, it is clearly indicated that the current invention allows one to avoid radiation/grafting. This ability to not use radiation/grafting results directly from the oxygen plasma treatment.

When argon plasma is used to treat polyurethane, free radicals are formed on the surface of the fibers. It is not clear whether free radicals will have any effect on the passage of platelets through the filter. Katsurada teaches another step to obtain a finished filter. In that step, a polymer is grafted on the free radical. It is that polymer that determine the platelet-retention capabilities of the filter, not the argon treatment. Additionally, Katsurada appears to only disclose the grafting of polymers that retain both leukocytes *and* platelets.

In contrast, when oxygen plasma is used to treat polyurethane, OH groups appear on the surface of the fibers. These groups alone allow the polyurethane to retain leukocytes while platelets pass. This occurs because the OH groups increase the hydrophilicity of the filter, which results in its ability to retain leukocytes while not substantially retaining platelets.

Thus, oxygen plasma treatment of the present invention results in the formation of OH groups on the surface of the fibers. In contrast, Katsurada's argon plasma treatment yields only free radicals that are then used to attach other polymers to the fibers. This is a clear structural difference resulting from the use of different gas plasma treatments.

The independent claims have all been amended to recite that the polyurethane is not radiation/graft polymerized to make this structural difference clearer, although Applicants believe it is already implied in the recitation of oxygen plasma treatment.

There is also a second difference between the current claims and Katsurada, Katsurada does not disclose a non-woven polyurethane filter. Examples 4-7 of Katsurada indicate only that polyurethane is in a "porous body." A "porous body" may be formed in many ways. Because a "porous body" is not necessarily a non-woven filter, the disclosure of a "porous body" alone is not sufficient to disclose a non-woven filter. Further, Katsurada at

Col. 3, lines 22-27 distinguishes filters that are “porous bodies” from those made of fibers, which seems to indicate that the “porous bodies” are not non-woven.

Accordingly, Katsurada fails to disclose an oxygen-treated polyurethane and instead disclosed only an argon-treated polyurethane that is radiation/graft polymerized. Katsurada additionally does not disclose use of polymers to allow passage of platelets and it fails to disclose a non-woven polymer. These are all structural differences as compared to the current claims. Accordingly, Applicants request allowance of all pending claims.

Rejections under 35 U.S.C. §103

Claims 24, 25, 27, 28 and 36-54 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,707,520 issued to Hitoshi Kuroki et al. (“Kuroki”) in view of Katsurada. Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Deficiencies in the teaching of Katsurada are described above. Applicants assert that these deficiencies result in a failure to disclose all claim limitations that are not cured by the Kuroki reference, even if viewed to teach everything asserted by the Examiner.

Applicants additionally would like to bring the Examiner’s attention to what appears to be an error in the Kuroki reference. Specifically, Col. 16, lines 9 -20 and Col. 17, lines 15-20 describe the filters of Examples 10-13. Col. 17, lines 15-20 indicates, “Table 5 proves that the leukocyte filters of Examples 10 to 13 ... exhibited better leukocyte removal rates *and platelet removal rates* than those of Comparative Examples 5 to 7.” (Emphasis added). This statement is at odds with the label of the right-hand column of Table 5, which is titled “Platelet Recovery Rate.” Applicants assert that one skilled in the art, based on Col. 16, lines 9-20, Col. 17, lines 15-20 and the description of the type of filters used as Examples 10-13 and the comparative examples found throughout Kuroki, would recognize that the right-hand column of Table 5 should read “Platelet Removal Rate”, *not* “Platelet Recovery Rate.”

Accordingly, Kuroki does not appear to show a filter allowing platelets to pass at a rate higher than 10%.

Alternatively, if the Examiner insists that Kuroki intends to show platelet recovery in Table 5, Applicants assert there is no motivation to combine Kuroki, focused on platelet recovery, with Katsurada, focused on platelet removal.

Finally, Applicants assert that if the Examiner believes the mistake in Kuroki is not evident to one skilled in the art, then the disclosure of Kuroki is so self-contradictory that it fails to teach anything relevant to platelet recovery.

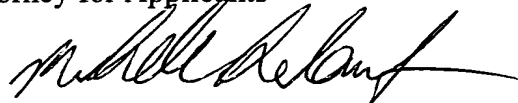
CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending Claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 02-0383 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2580.

Respectfully submitted,
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